

53

STATE OF ALABAMA,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	MOBILE COUNTY, ALABAMA
vs.	*	
RODNEY KARL STANBERRY,	*	CASE NO: CC-92-2313
Defendant.	*	CC-92-2314
		CC-92-2315

MOTION TO DISMISS INDICTMENT

COMES NOW the Defendant in the above styled cause by and through his counsel and moves this Honorable Court to dismiss the indictment filed in the above styled cause, and as grounds therefore, shows as follows:

1. The indictment fails to contain allegations stating as definitely as possible the time and place of the commission of the alleged offense.

2. The indictment is vague and ambiguous and does not apprise the Defendant of the charge against him with sufficient specificity to permit him to adequately prepare his defenses, and to plead any judgment in the instant case as a bar to any latter proceedings against him based on this same alleged offense in contravention to the double jeopardy clause of the 5th Amendment to the United States Constitution.

3. The indictment is vague and ambiguous and indefinite so as to deprive the Defendant of rights guaranteed to him under the Due Process clause of the 5th Amendment and under the clause of the 6th Amendment guaranteeing to the Defendant the right to be informed of the nature of cause of the accusation.

4. The indictment is based upon an unconstitutional statute or in the alternative, said statute is unconstitutional as applied to the facts to this case. The constitutional provisions violated are the 4th, 5th, 6th and the 14th Amendments.


5. The allegations set forth in the complaint fail to state facts sufficient to constitute a crime and said facts do not constitute the violation of any statute that the State of Alabama is empowered to enact.

6. That the arrest of the Defendant was unlawful in that the officer lacked probable cause to arrest the Defendant.

7. That the arrest of the Defendant was unlawful in that the police officer arrested the Defendant for a misdemeanor violation without first obtaining a warrant, or observing the commission of the alleged offense, in contravention of Alabama Law.

WHEREFORE, the Defendant prays that this matter be set down for a hearing and after due consideration the indictment heretofore rendered herein be dismissed.

Respectfully submitted,

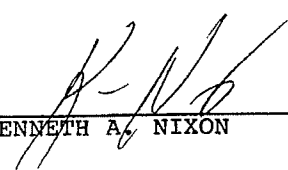


KENNETH A. NIXON
Attorney for Defendant
Post Office Box 2301
Mobile, Alabama 36652
PHONE: (205) 433-1806

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED BY
OCT 15 3 07 PM '92
Epstein J. Wilson
CLERK CIRCUIT COURT

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of October, 1992, served a copy of the foregoing pleading on Joe C. Jordan, Assistant District Attorney, P.O. Box 2841, Mobile, Alabama 36604, by placing same in the United States Mail, properly addressed and first class postage prepaid.



KENNETH A. NIXON

56

STATE OF ALABAMA,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	MOBILE COUNTY, ALABAMA
vs.	*	
RODNEY KARL STANBERRY,	*	CASE NO: CC-92-2313
Defendant.	*	CC-92-2314
		CC-92-2315

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1. The indictment fails to contain allegations stating as definitely as possible the time and place of the commission of the alleged offense.

2. The indictment is vague and ambiguous and does not apprise the Defendant of the charge against him with sufficient specificity to permit him to adequately prepare his defenses, and to plead any judgment in the instant case as a bar to any latter proceedings against him based on this same alleged offense in contravention to the double jeopardy clause of the 5th Amendment to the United States Constitution.

3. The indictment is vague and ambiguous and indefinite so as to deprive the Defendant of rights guaranteed to him under the Due Process clause of the 5th Amendment and under the clause of the 6th Amendment guaranteeing to the Defendant the right to be informed of the nature of cause of the accusation.

4. The indictment is based upon an unconstitutional statute or in the alternative, said statute is unconstitutional as applied to the facts to this case. The constitutional provisions violated are the 4th, 5th, 6th and the 14th Amendments.

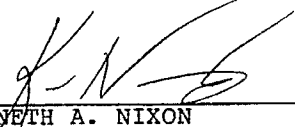
5. The allegations set forth in the complaint fail to state facts sufficient to constitute a crime and said facts do not constitute the violation of any statute that the State of Alabama is empowered to enact.

6. That the arrest of the Defendant was unlawful in that the officer lacked probable cause to arrest the Defendant.

7. That the arrest of the Defendant was unlawful in that the police officer arrested the Defendant for a misdemeanor violation without first obtaining a warrant, or observing the commission of the alleged offense, in contravention of Alabama Law.

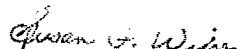
WHEREFORE, the Defendant prays that this matter be set down for a hearing and after due consideration the indictment heretofore rendered herein be dismissed.

Respectfully submitted,


KENNETH A. NIXON
Attorney for Defendant
Post Office Box 2301
Mobile, Alabama 36652
PHONE: (205) 433-1806

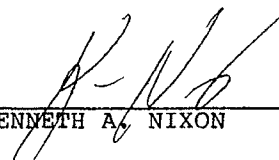
STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

OCT 15 3 07 PM '92


CLERK CIRCUIT COURT

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of October, 1992, served a copy of the foregoing pleading on Joe C. Jordan, Assistant District Attorney, P.O. Box 2841, Mobile, Alabama 36604, by placing same in the United States Mail, properly addressed and first class postage prepaid.



KENNETH A. NIXON

49

STATE OF ALABAMA,	*	IN THE CIRCUIT COURT OF
Plaintiff,	*	MOBILE COUNTY, ALABAMA
vs.	*	
RODNEY KARL STANBERRY,	*	CASE NO: CC-92-2313
Defendant.	*	CC-92-2314
		CC-92-2315

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1. The indictment fails to contain allegations stating as definitely as possible the time and place of the commission of the alleged offense.

2. The indictment is vague and ambiguous and does not apprise the Defendant of the charge against him with sufficient specificity to permit him to adequately prepare his defenses, and to plead any judgment in the instant case as a bar to any latter proceedings against him based on this same alleged offense in contravention to the double jeopardy clause of the 5th Amendment to the United States Constitution.

3. The indictment is vague and ambiguous and indefinite so as to deprive the Defendant of rights guaranteed to him under the Due Process clause of the 5th Amendment and under the clause of the 6th Amendment guaranteeing to the Defendant the right to be informed of the nature of cause of the accusation.

4. The indictment is based upon an unconstitutional statute or in the alternative, said statute is unconstitutional as applied to the facts to this case. The constitutional provisions violated are the 4th, 5th, 6th and the 14th Amendments.


5. The allegations set forth in the complaint fail to state facts sufficient to constitute a crime and said facts do not constitute the violation of any statute that the State of Alabama is empowered to enact.

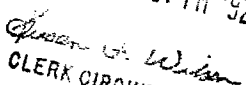
6. That the arrest of the Defendant was unlawful in that the officer lacked probable cause to arrest the Defendant.

7. That the arrest of the Defendant was unlawful in that the police officer arrested the Defendant for a misdemeanor violation without first obtaining a warrant, or observing the commission of the alleged offense, in contravention of Alabama Law.

WHEREFORE, the Defendant prays that this matter be set down for a hearing and after due consideration the indictment heretofore rendered herein be dismissed.

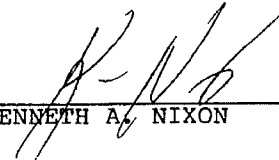
Respectfully submitted,


KENNETH A. NIXON
Attorney for Defendant
Post Office Box 2301
Mobile, Alabama 36652
PHONE: (205) 433-1806

STATE OF ALA. MOBILE CO.
IDENTIFY THIS FILING
WAS FILED ON
OCT 15 3 07 PM '92

CLERK CIRCUIT COURT

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of October, 1992, served a copy of the foregoing pleading on Joe C. Jordan, Assistant District Attorney, P.O. Box 2841, Mobile, Alabama 36604, by placing same in the United States Mail, properly addressed and first class postage prepaid.



KENNETH A. NIXON

62

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,	*	
Plaintiff,	*	
vs.	*	CASE NOS. CC-92-2313
		CC-92-2314
RODNEY KARL STANBERRY,	*	CC-92-2315
Defendant.	*	


DEFENDANT'S SPECIFIC BRADY MOTION NUMBER ONE (1)

COMES NOW THE Defendant, Rodney Karl Stanberry, by and through his attorney of record and respectfully moves the Court for an order pursuant to Brady v. Maryland and its progeny to direct the government to provide the following exculpatory information:

1. Any and all evidence in the possession of the District Attorney, Prichard Police Department or their agents which tends to show that Rodney Karl Stanberry was not at the residence of the victim at the time the residence was burglarized and/or at the time the victim was shot.

2. Any and all evidence in the possession of the District Attorney, Prichard Police Department or their agents which tends to show that someone other than Rodney Karl Stanberry participated in, performed and/or carried out the commission of the shooting of the victim and/or the theft of property from the residence of the victim.

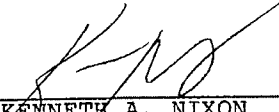
Respectfully submitted,



KENNETH A. NIXON
Attorney for Defendant
P.O. Box 2301
Mobile, AL 36652
(205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 15th day of October, 1992, served a copy of the foregoing on Joe C. Jordan, Assistant District Attorney, P.O. box 2841, Mobile, Alabama 36604, by placing a copy of same in the United States Mail, properly addressed and first class postage prepaid.


KENNETH A. NIXON

MOBILE, ALABAMA
OCT 12 5 00 PM '92
CLERK OF DISTRICT COURT

64
10-15-92

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA


STATE OF ALABAMA,	*	
Plaintiff,	*	
vs.	*	CASE NOS. CC-92-2313
		CC-92-2314
RODNEY KARL STANBERRY,	*	CC-92-2315
Defendant.	*	

DEFENDANT'S SPECIFIC BRADY MOTION NUMBER TWO (2)

COMES NOW THE Defendant, Rodney Karl Stanberry, by and through his attorney of record and respectfully moves the Court for an order pursuant to Brady v. Maryland and its progeny to direct the government to provide the following exculpatory information:

1. Whether the victim (or any eyewitness) in this present case, Valerie Finley, ever stated that she could not see the assailant's face or ever stated she could not identify her assailant. Lindsey v. King, 769 F.2d 1034 (5th Cir. 1985).


Respectfully submitted,


KENNETH A. VIXON
Attorney for Defendant
P.O. Box 2301
Mobile, AL 36652
(205) 433-1806

STATE OF ALA. MOBILE CO.
CLERK OF THE COURT
OCT 15 3 08 PM '92
CLERK CIRCUIT COURT

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 15th day of October, 1992, served a copy of the foregoing on Joe C. Jordan, Assistant District Attorney, P.O. box 2841, Mobile, Alabama 36604, by placing a copy of same in the United States Mail, properly addressed and first class postage prepaid.



KENNETH A. NIXON

66

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,

*

Plaintiff,

*

vs.

*

CASE NOS. CC-92-2313

CC-92-2314

RODNEY KARL STANBERRY,

*

CC-92-2315

Defendant.


*

DEFENDANT'S SPECIFIC BRADY MOTION NUMBER THREE (3)

COMES NOW THE Defendant, Rodney Karl Stanberry, by and through his attorney of record and respectfully moves the Court for an order pursuant to Brady v. Maryland and its progeny to direct the government to provide the following exculpatory information:

1. Whether any eyewitness ever stated that they observed someone other than the Defendant enter or leave the residence of the victim at or near the time of the shooting. Lindsey v. King, 769 F.2d 1034 (5th Cir. 1985).

Respectfully submitted,



KENNETH A. NIXON
Attorney for Defendant
P.O. Box 2301
Mobile, AL 36652
(205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 15th day of October, 1992, served a copy of the foregoing on Joe C. Jordan, Assistant District Attorney, P.O. box 2841, Mobile, Alabama 36604, by placing a copy of same in the United States Mail, properly addressed and first class postage prepaid.

K-N6
KENNETH A. NIXON

STATE OF ALA. MOBILE CO.
CLERK OF DISTRICT COURT
OCT 19 3 09 PM '92
Clerk of District Court
CLERK CIRCUIT COURT

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA

*

VS.

*

CC 92-2313 - 2315

RODNEY STANBERRY

*

68
Granted
Singed [Signature]


MOTION FOR CONTINUANCE

Comes now the State of Alabama and moves the Court to continue the case from the trial setting of November 16, 1992.

The victim in this case was recently admitted and released from the hospital due to the continuing injury she received in this case.

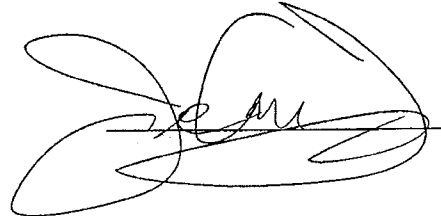
The State of Alabama is not prepared to try the case on November 16, 1992. This is the first trial setting and the Defendant is out of jail on bond.

Respectfully submitted,


JOE CARL JORDAN
Assistant District Attorney

Certificate of Service

I hereby certify that I have served a copy of the foregoing Motion on Kenneth A. Nixon, Esq., counsel for the Defendant, by placing a copy in the United States Mail, properly addressed to him at P. O. Box 2301, Mobile, AL 36652, with postage prepaid, this the 12th day of November, 1992.



Granted over
Defendants objection
11/13/92

CC
69

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

FILED

STATE OF ALABAMA

VS.

§ Case No. CC 92-2313 - 2315

RODNEY STANBERRY

§

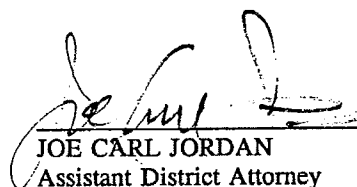
STATE'S MOTION FOR DISCOVERY

The State of Alabama moves the Court to order the defendant as follows:

(1) To permit the State of Alabama to analyze, inspect, and copy or photograph books, papers, documents, photographs, tangible objects, buildings or places, or portions of any of these things, which are within the possession, custody, or control of the defendant and which the defendant intends to use or to introduce in evidence at the trial, including any tape recordings and transcripts of any tape recordings of any witnesses;

(2) To permit the State of Alabama to inspect and copy any results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with this case, which are within the possession or control of the defendant and which he intends to introduce into evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial, if the results or reports relate to the witness's testimony.

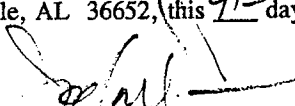
Respectfully submitted,


JOE CARL JORDAN
Assistant District Attorney

70


Certificate of Service

I hereby certify that I have served a copy of the foregoing on the Honorable Ken Nixon, opposing counsel of record by placing a copy in the United States mail, properly addressed to him at P. O. Box 2301, Mobile, AL 36652, this 9th day of December, 1992.



STATE OF ALA. MOBILE CO.
CLERK OF DISTRICT COURT
MOBILE, ALA.

DEC 3 1 41 PM '92


CLERK CIRCUIT COURT

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,	*
Plaintiff,	*
vs.	* CASE NO. CC-92-2313 - 2315
RODNEY STANBERRY,	*
Defendant.	*

DEFENDANT'S OBJECTION TO
PLAINTIFF'S MOTION FOR DISCOVERY


COMES NOW the Defendant in the above entitled case by and through his attorney of record and shows unto the Court as follows:

1. The Defendant objects to the Court granting paragraph (1) of the State's Motion for Discovery heretofore filed herein and as grounds shows unto the Court that the said request is over-broad and the requested material is not discoverable pursuant to Rule 16(2) of the Alabama Rules of Criminal Procedure. Specifically, the State has requested "including any tape recordings and transcripts of any tape recordings of any witnesses". Defendant avers that this information, if it exists, is not discoverable by the State because: (1) It is not set forth in Rule 16(2) of the Alabama Rules of Criminal Procedure as discoverable material; and (2) Rule 16(2)(d) is taken from Federal Rule 16(b)(2). The Rule states that with the exception of scientific or medical reports, the Rule does not authorize the discovery or inspection of reports, memorandums or other internal defense documents made by the Defendant or his attorneys or agents in

connection with the investigation or defense of the case. The Rule does not authorize discovery or inspection of statements made by the Defendant or by State or defense witnesses, or by perspective State or defense witnesses, to the Defendant, his attorneys or agents. This is the so called "Work Product Rule" and has a limitation on the scope of discovery by the State. In cite Alabama Rules of Criminal Procedure, Hugh Maddox, Copyright 1990, by the Michie Company at Page 496 and 497.

WHEREFORE, the Defendant prays that this Honorable Court will issue an Order denying the State's Motion for Discovery heretofore filed herein.

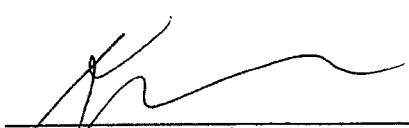
Respectfully submitted,



KENNETH A. NIXON
Attorney for Defendant
P.O. Box 2301
Mobile, AL 36652
(205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 14th day of December, 1992, served a copy of the foregoing on Joe Carl Jordan, Assistant District Attorney, P.O. Box 2841, Mobile, Alabama 36602, by placing a copy of same in the United States Mail, properly addressed and first class postage prepaid.



KENNETH A. NIXON

CLERK CIRCUIT COURT
CLERK CIRCUIT COURT



92-2313 73

STATE OF ALABAMA
THIRTEENTH JUDICIAL CIRCUIT
CHRIS N. GALANOS, DISTRICT ATTORNEY

MOBILE COUNTY COURTHOUSE
MOBILE, ALABAMA 36602

TELEPHONE (205) 690-8400
TELECOPIER (205) 690-4639

Ken Nixon, Esq.
P.O. Box 2301
Mobile, Al 36652

October 13, 1992

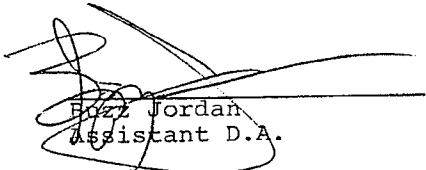
Dear Ken:


The following discovery is enclosed in the case of State v.
Rodney Stanberry.

The following is enclosed:

- 1.) Typed statement of Rodney Stanberry;
- 2.) Tape of #1 above is in my office for review;
- 3.) Three (3) indictments;
- 4.) Photos are at my office for review;
- 5.) Victims medical records are voluminous and are at my office for review.

I will continue to supplement discovery under the rules.


Buzz Jordan
Assistant D.A.

STATE OF ALA. MOBILE CO.
RECEIVED THIS PLEADING
OCT 13 3 31 PM '92

CLERK CIRCUIT COURT



CHRIS N. GALANOS
DISTRICT ATTORNEY

THIRTEENTH JUDICIAL CIRCUIT
MOBILE COUNTY COURT HOUSE
MOBILE, ALABAMA 36602

TELEPHONE
(205) 690-8400

December 4, 1992

CC
74
92-2315

Ken Nixon, Esq.
P. O. Box 2301
Mobile, AL 36652

Re: State v. Rodney Stanberry

Dear Ken:

The following additional discovery is enclosed in the case of State v. Rodney Stanberry, CC 92-2323 - 2315:

- 1) Handwritten statement of Rodney Stanberry dated 3/3/92;
- 2) Handwritten statement of Rodney Stanberry dated 3/7/92;
- 3) Lab cover sheet dated 4/3/92 from Dale Carter;
- 4) Lab report dated 3/17/92 from Joseph Saloom;

Sincerely,


BUZZ JORDAN
Assistant District Attorney

BJ/jfj

STATE OF ALA. MOBILE CO.
I CERTIFY THIS FILING
DEC 7 11 23 AM '92
CLERK CIRCUIT COURT



CHRIS N. GALANOS
DISTRICT ATTORNEY

CC
92-2313⁷⁵
Rodney Stanber

THIRTEENTH JUDICIAL CIRCUIT
MOBILE COUNTY COURT HOUSE
MOBILE, ALABAMA 36602

TELEPHONE
(205) 690-8400

JANUARY 12, 1993

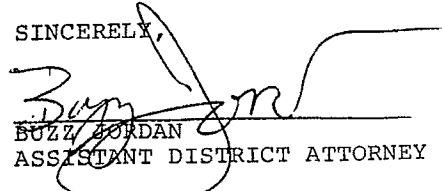
DEAR KEN:

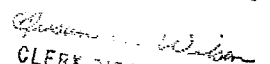
I AM ENCLOSING STATEMENTS MADE BY DONALD "TACO" JONES.

ENCLOSED ARE:

- 1.) STATEMENT MADE 4/92 - 13 PAGES IN LENGTH;
- 2.) STATEMENT MADE 3/7/92;
- 3.) STATEMENT TO GRAND JURY ON 12/17/92;
- 4.) STATEMENT MADE TO LEBARRON SMITH AND BUZZ JORDAN ON 12-2-92. IS NOT RECORDED AND IS WORK PRODUCT AND IS NOT DISCOVERABLE:

SINCERELY,


BUZZ JORDAN
ASSISTANT DISTRICT ATTORNEY

STATE OF ALA. MOBILE CO.
FILED FOR READING
JAN 13 4 25 PM '93

CLERK CIRCUIT COURT



17

STATE OF ALABAMA
THIRTEENTH JUDICIAL CIRCUIT
CHRIS N. GALANOS, DISTRICT ATTORNEY

MOBILE COUNTY COURTHOUSE
MOBILE, ALABAMA 36602

TELEPHONE (205) 690-8400
TELECOPIER (205) 690-4836

April 1, 1993

Ken Nixon, Esq.

Mobile, AL 36602

Dear Ken:

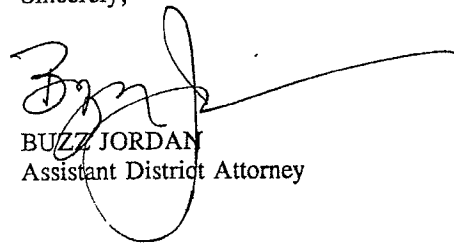
The following is an updated list of discovery in State v. Rodney Stanberry, CC 92-2313 - 2315:

- 1) Typed statement of Rodney Stanberry
- 2) Tape of #1 above is in my office for your review
- 3) Three (3) indictments
- 4) Photos are at my office for your review
- 5) Victim's medical records are at my office for your review
- 6) Handwritten statement of Rodney Stanberry dated 3/3/92
- 7) Handwritten statement of Rodney Stanberry dated 3/7/92
- 8) Lab cover sheet dated 4/3/92 from Dale Carter
- 9) Lab report dated 3/17/92 from Joseph Saloom
- 10) Statement of Donald "Taco" Jones made April 1992
- 11) Statement of Donald "Taco" Jones made 3/7/92
- 12) Statement of Donald "Taco" Jones to Grand Jury made 12/17/92
- 13) Statement of Donald "Taco" Jones to LeBarron Smith and Buzz Jordan on 12/2/92 is not recorded, is work product, and is not discoverable
- 14) City of Mobile Chestang Landfill D.A. ticket dated 3/2/92
- 15) BFI Daily Drivers Inspection and Vehicle Condition Report dated 3/2/92
- 16) BFI Route 910 System Route Sheet for Monday
- 17) BFI Drivers Daily Route Report dated 3/2/92
- 18) BFI time card, period ending 3/7/92
- 19) BFI repair orders dated from 12/2/91 - 5/30/92
- 20) Statement of Valerie Finley, 2 page transcript attached
- 21) Tape of #20 at my office for review
- 22) Statement of Valerie dated 4/14/92 attached
- 23) Tape of #22 at my office for review

- 24) Statement of Al Fletcher from Brenda Gray attached
- 25) Statement of Al Fletcher from Eugenia Patrick attached
- 26) Valerie Finley keys received from Malthis Finley on 6/11/92 at my office
- 27) Tyrone Dortch Statement dated 4/30/92
- 28) Statement of Sgt. Smith from Tyrone Dortch without date attached
- 29) Warranty and receipt from Auto Zone
- 30) Defendant Stanberry's 9mm Taurus - at my office
- 31) Lt. Dees' report attached
- 32) Sgt. Myrick's list of items attached
- 33) 12 pages (denominated 1-12 by me at top right hand corner) being written (and/or typed) re: reports made reportedly by Det. Fletcher

Ken, if you are missing any of the above items, please let me know.


Sincerely,


BUZZ JORDAN
Assistant District Attorney

BJ/jj

STATE OF ALA. MOBILE CO.
CLERK OF DISTRICT COURT

APR 1 11 45 AM '93


CLERK CIRCUIT COURT



CHRIS N. GALANOS
DISTRICT ATTORNEY

THIRTEENTH JUDICIAL CIRCUIT
MOBILE COUNTY COURT HOUSE
MOBILE, ALABAMA 36602

TELEPHONE
(205) 690-8400

October 15, 1993

Ken Nixon, Esq.
P. O. Box 2301
Mobile, AL 36652

Dear Ken:

The following is additional discovery which is being hand delivered this date in State v. Rodney Stanberry, CC 92-2313 through 2315:

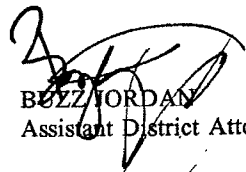
- 1) Enclosed is a copy of a tape recording provided by Rodney Stanberry to Prichard Police of an alleged conversation between Rodney Stanberry and Taco Jones. The original tape is in my office for your review. A transcript of the tape recording is work product of the D.A.'s office and is not discoverable;
- 2) Enclosed is a copy of a transcript of a tape recorded interview between Lt. Lebaron Smith and Terrell Moore dated April 21, 1992. The tape is in my office for your review;
- 3) Enclosed is a copy of a "revised" transcript of an interview with Rodney Stanberry on April 17, 1992;
- 4) Enclosed is a copy of a "statement" from Rene Whitecloud received by the Prichard Police Department;
- 5) For review at my office is a set of photographs of miscellaneous individuals received by the Prichard Police Department;
- 6) There is in my file a copy of a police report with handwriting re: what a particular witness saw on the day of the shooting. I'm not sure which officer wrote the report because it is unsigned. The information is not exculpatory but is inculpatory and I am filing a motion for protective order to prevent its discovery prior to trial. I will either use the information in my case in chief or in rebuttal. It is not discoverable under the Alabama Rules of Criminal Procedure or under Brady. See Gowens v. State of Alabama (Ala.Ct.Crim.App. 8/13/93); and,

- 7) I am attempting to obtain:
- a) a cassette recording made of Terrell Moore in October 1992;
 - b) a VCR tape recording of Terrell Moore; and,
 - c) a transcript of an interview with Terrell Moore.

If I obtain any of these items, you may inspect them in my office.

As of this date, I have received no discovery items from you in response to the State's motion for discovery which was granted by the Court.

Sincerely,

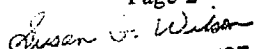

BUZZ JORDAN
Assistant District Attorney

BJ/jfj

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
MAILED ON

OCT 15 11 43 AM '93

Page 2


CLERK CIRCUIT COURT



CHRIS N. GALANOS
DISTRICT ATTORNEY

THIRTEENTH JUDICIAL CIRCUIT
MOBILE COUNTY COURT HOUSE
MOBILE, ALABAMA 36602

TELEPHONE
(205) 690-8400

November 17, 1993

Ken Nixon, Esq.
P. O. Box 2301
Mobile, AL 36652

Hand Delivery

Dear Ken:

Enclosed is additional discovery in the case of State v. Rodney Stanberry, CC 92-2313 through 2315:

- 1) Police report referring to Mr. Rogers and J. J. Plumb;
- 2) Police report referring to Rodney Stanberry telling Mr. Minley where guns were; and,
- 3) Transcript from interview with Terrell Moore.

I have not received any discovery items from you regarding this case. The Court has previously granted the State's motion for discovery.

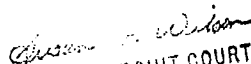
Sincerely,


BUZZ JORDAN
Assistant District Attorney

BJ/fj

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

NOV 17 11 28 AM '93


CLERK CIRCUIT COURT



STATE OF ALABAMA
DISTRICT ATTORNEY

THIRTEENTH JUDICIAL CIRCUIT
MOBILE COUNTY COURT HOUSE
MOBILE, ALABAMA 36602

December 20, 1994

TELEPHONE
(205) 690-8400

Ken Nixon
P.O. Box 2727
Mobile, Alabama 36652

Re: Rodney Stanberry, CC 92-2313 - 2315

Dear Ken:

In continuing to make discovery, Eddie Ragland with the Prichard Police Department dusted and attempted to lift prints from the residence of Valerie Finley. There were a lot of smears. he was not able to lift any identifiable latent prints.

Sincerely,


Buzz Jordan

BJ/kd

STATE OF ALA. MOBILE CO.
CLERK OF COURT

DEC 21 9 41 AM '94

CLERK OF COURT

LYONS, PIPES & COOK

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

2 NORTH ROYAL STREET

P. O. BOX 2727

MOBILE, ALABAMA

36652

G. SAGE LYONS
WESLEY PIPES
NORTON W. BROOKER, JR.
COOPER C. THURBER
MARION A. QUINA, JR.
THOMAS F. GARTH
CLAUDE D. BOONE
WALTER M. COOK, JR.
J. PATRICK COURTNEY, III
REGGIE COPELAND, JR.
CHARLES L. MILLER, JR.
W. DAVID JOHNSON, JR.

JOSEPH J. MINUS, JR.
CAROLINE C. MCCARTHY
WILLIAM E. SHREVE, JR.
R. MARK KIRKPATRICK
KENNETH A. NIXON
DANIEL S. CUSHING
ALLEN E. GRAHAM
MICHAEL C. NIEMEYER
JOHN C. BELL
RICHARD D. MORRISON
M. WARREN BUTLER
CHRISTOPHER L. GEORGE

JOSEPH M. LYONS (1974-1987)
SAM W. PIPES (1918-1982)
WALTER M. COOK (1915-1988)

TELEPHONE
(205) 432-4481
TELECOPY
(205) 433-1820
CABLE ADDRESS
LYSEA
DIRECT DIAL

January 12, 1995

Joe C. Jordan
Assistant District Attorney
P.O. Box 2841
Mobile, AL 36652

RE: State of Alabama v. Rodney Karl Stanberry
Case Nos. CC-92-2313, CC-92-2314 and CC-92-2315


Dear Buzz:

In the discovery that you provided, there is a transcript of an interview with Valerie Finley which was conducted by Detective Al Fletcher while Mrs. Finley was in the hospital. Please provide me with a copy of the audio tape of this interview. In addition, I would request that you provide me with copies of the audio tape of all statements that you have provided to me in discovery. I will be glad to give you blank tapes for the copying if you so desire.

I appreciate your cooperation in this matter and look forward to receiving the tape soon.

Sincerely,

LYONS, PIPES & COOK, P.C.


Kenneth A. Nixon

KAN/pt

cc: Clerk of Court
Mobile County Circuit Court

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IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,	*	
Plaintiff,	*	
vs.	*	CASE NOS. CC-92-2313
		CC-92-2314
RODNEY STANBERRY,	*	CC-92-2315
Defendant.	*	

ORDER

The Court on this date reaffirmed its prior order granting the Defendant open file discovery. In addition, it is hereby ordered that the Prichard Police Department and its agents are hereby directed to allow the Defendant to inspect and copy all records, reports, evidence or memoranda in their possession concerning this case.

Dated this the 17 day of November, 1993.

Leroy G. McNamee

 CIRCUIT JUDGE

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA

VS.

RODNEY STANBERRY

*

*

*

FILE COPY

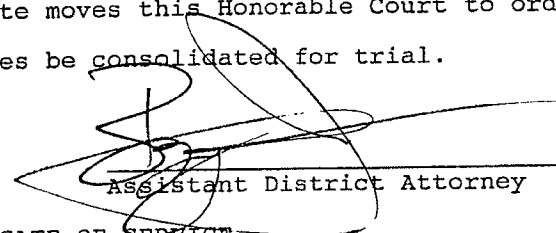
92-2313, 92-2314 & 92-2315

MOTION TO CONSOLIDATE OFFENSES

Comes now the State of Alabama, by and through the District Attorney for the Thirteenth Judicial Circuit (Mobile County), and moves this Honorable Court to join the above-captioned cases as to offenses for purposes of trial pursuant to Rule 13.3(a) of the Alabama Rules of Criminal Procedure, and as grounds therefore, the State avers the following:

- (1) The above-captioned offenses are of the same or similar character;
- (2) The above-captioned offenses are based on the same conduct or are otherwise connected in their commission; or,
- (3) The above-captioned offenses are part of a common scheme or plan.

WHEREFORE, the State moves this Honorable Court to order that the above-captioned cases be consolidated for trial.


Assistant District Attorney

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Motion to Consolidate Offenses on all Counsel for the Defendant(s), by placing a copy of same in the U. S. Mail, postage paid, this the 15 day of April, 1993.

APR 15 1993
CLERK CIRCUIT COURT

76

4-93

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,	*	
Plaintiff,	*	
vs.	*	CASE NOS. CC-92-2313
		CC-92-2314
RODNEY KARL STANBERRY,	*	CC-92-2315
Defendant.	*	

MOTION TO CONTINUE

COMES NOW the Defendant, Rodney Karl Stanberry, by and through his attorney of record and shows unto the Court as follows:

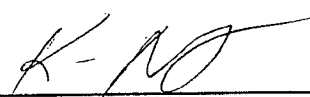
1. That this case is set for trial on Monday, April 12, 1993, at 8:30 a.m.
2. That on or about April 2, 1993, the Assistant District Attorney provided the Defendant with voluminous discovery material which necessitates additional investigation by the Defendant.
3. That the Defendant avers that he will be substantially prejudiced unless and until he has an opportunity to investigate the information set forth in the discovery materials provided by the prosecution.
4. That the Defendant does not have sufficient time to investigate the information provided by the prosecution prior to Monday, April 12, 1993.
5. That the prosecution has no objection to the case being continued.

WHEREFORE, the Defendant prays that this Honorable Court continue the case from its current trial setting of April 12,

86-A

1993, and further that the case be reset for trial on the next available trial docket, and your Petitioner prays for such other, further or different relief he may be entitled, the premises considered.

Respectfully submitted,



KENNETH A. NIXON
Attorney for Defendant
P. O. Box 2301
Mobile, Alabama 36652
(205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of April, 1993, served a copy of the foregoing on the following by mailing a copy of the same by first class United States Mail, properly addressed and postage prepaid:

Joe C. Jordan
Assistant District Attorney
P.O. Box 2841
Mobile, AL 36604



KENNETH A. NIXON

STATE OF ALABAMA
CLERK OF DISTRICT COURT
MOBILE
APR 1 3 54 PM '93
CLERK DISTRICT COURT

87

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,	*	
Plaintiff,	*	
vs.	*	CASE NOS. CC-92-2313
		CC-92-2314
RODNEY KARL STANBERRY,	*	CC-92-2315
Defendant.	*	

MOTION TO DISMISS FOR FAILURE
TO COMPLY WITH DISCOVERY ORDER

COMES NOW the Defendant, Rodney Karl Stanberry, by and through his attorney of record and shows unto the court as follows:

1. In November of 1992, this Honorable Court directed the District Attorney to provide the counsel for the defense with "open file" discovery. Specifically, directing that the District Attorney make available to the Defendant all materials in its possession pertaining to the above referenced cases.

2. That the prosecution has not sought nor obtained a protective order regarding any discovery material in its possession.

3. That subsequent to the arraignment, the Defendant filed numerous Specific "Brady" Requests asking that the District Attorney's office provide the Defendant with certain specific information and/or material that the Defendant believed to be exculpatory in nature.

4. That the Defendant has requested of the District Attorney on several occasions that he be allowed to review the

ENTIRE KN

District Attorney's file in this regard and his request has not been granted.

5. That the District Attorney has informed the Defendant's attorney that he has information and/or materials in his possession that he is refusing to make available to the Defendant's attorney for copying and inspection in violation of this Court's prior discovery order.

6. That the District Attorney and/or his agent had in his possession physical evidence, exculpatory in nature that was voluntarily provided to the District Attorney and/or his agent by the Defendant and the Assistant District Attorney has represented to counsel for the defense that the said exculpatory evidence has been lost and/or misplaced.

7. That the District Attorney delivered to the Defendant's attorney on or about April 2, 1993, material and relevant information which he had in his possession or has had access to for several months and since the date of the Judge's original discovery order. The Defendant avers that his defense has been substantially prejudiced in that the Assistant District Attorney has withheld discovery information and/or materials until the week before trial, thereby not affording the Defendant adequate time to interview witnesses and/or verify any of the information provided to the Defendant.

WHEREFORE, the Defendant prays that this Honorable Court will dismiss the indictments pending against the Defendant and/or that the Court grant the Defendant any other, further

88-A

or different relief he may be entitled to, the premises considered.

Respectfully submitted,




KENNETH A. NIXON
Attorney for Defendant
P. O. Box 2301
Mobile, Alabama 36652
(205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that on this the 7th day of April, 1993, served a copy of the foregoing on the following by mailing a copy of the same by first class United States Mail, properly addressed and postage prepaid:

Joe C. Jordan
Assistant District Attorney
P.O. Box 2841
Mobile, AL 36604

HAND DELIVERED
4-7-93



KENNETH A. NIXON

STATE OF ALA. MOBILE CO.
CLERK OF DISTRICT COURT

APR 1 3 15 PM '93

James W. Sullivan
CLERK CIRCUIT COURT

STATE OF ALABAMA

50

VS.

§ CC 92-2313 - 2315

RODNEY STANBERRY

22

MOTION TO HEAR PRE-TRIAL MOTIONS BEFORE THE DAY OF TRIAL

This case is set for trial November 29, 1993.

Comes now the State of Alabama and moves the Court to hold a special hearing, prior to the day of trial, to hear pretrial motions on behalf of the State and the defense. It is anticipated that several pretrial motions will be filed and it would expedite the trial if the motions could be argued and ruled on prior to trial.

Respectfully submitted,

JOE C. JORDAN
Assistant District Attorney

Certificate of Service

I hereby certify that I have served a copy of the foregoing motion on Ken Nixon, Esq., counsel for the Defendant, by hand delivery this the 19th day of October, 1993.

STATE OF ALA. MOBILE CO.
IN SENATE THIS 21st DAY OF
JANUARY 1904

UCT 15 11 43 AM '93

Eugene W. Wilson
CLERK CIRCUIT COURT

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA

§

VS.

§ CC 92-2313 - 2315

RODNEY STANBERRY

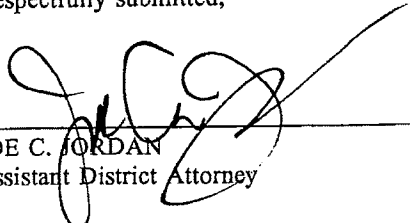
§

MOTION IN LIMINE

Comes now the State of Alabama and moves in limine for a court order directing that Defendant's attorney, Defendant, and Defendant's witnesses not mention or make reference to during voir dire, opening, direct or cross-exam, or closing argument, or at any other time in front of the jury any evidence re:

- 1) Any statements or tape recordings made by Terrell Moore unless and until Terrell Moore testifies in open court. Otherwise, any statements would be hearsay; ✓ ✓ ✓
- 2) Any statements made by Donard "Taco" Jones unless and until Donard "Taco" Jones testifies in open court. Otherwise, any statements would be hearsay; ✓ ✓ ✓
- 3) Any statements made by Rodney Stanberry unless and until Rodney Stanberry testifies in open court. Otherwise, any statements would be hearsay;
- 4) Any statements made by Rene Whitecloud unless and until Rene Whitecloud testifies in open court. Otherwise, any statements would be hearsay;
- 5) Any statements made by Angel Melendez, aka "Wish" unless and until Angel Melendez, aka "Wish" testifies in open court. Otherwise, any statements would be hearsay; and,
- 6) Any statements by any other witnesses who the Defense attorney knows is not present in Mobile and will not testify at trial as such would be hearsay evidence.

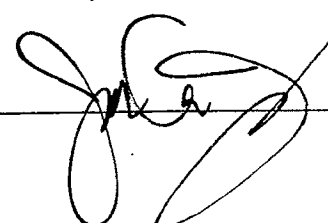
Respectfully submitted,



JOE C. JORDAN
Assistant District Attorney

Certificate of Service

I hereby certify that I have served a copy of the foregoing motion on Ken Nixon, Esq.,
counsel for the Defendant, by hand delivery this the 15 day of October, 1993.



IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA

20

VS.

§ CC 92-2313 - 2315

RODNEY STANBERRY

20

MOTION FOR PROTECTIVE ORDER

Comes now the State of Alabama and moves the Court to protect the State of Alabama from providing to the defense certain information which is contained on a particular sheet of a police report. The police report is not signed by any officer and the material is inculpatory, not exculpatory to the Defendant.

The information is not discoverable under the Alabama Rules of Criminal Procedure and is not discoverable under Brady.

The State of Alabama may use the information in its case in chief or may elect to only use the information to rebut the anticipated defense of Stanberry.

Respectfully submitted,

JOE C. JORDAN
Assistant District Attorney

Certificate of Service

I hereby certify that I have served a copy of the foregoing motion on Ken Nixon, Esq., counsel for the Defendant, by hand delivery this the 13 day of October, 1993.

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

OCT 15 11 43 AM '93

Susan J. Wilson
CLERK CIRCUIT COURT

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA
CRIMINAL DIVISION

STATE OF ALABAMA

v.

RODNEY KARL STANBERRY,

Defendant.

*
*
*
*
*
*

Case No. CC-92-2313
CC-92-2314
CC-92-2315

MOTION IN LIMINE

Comes now the Defendant, Rodney Karl Stanberry, in the above-styled and numbered causes and moves this Honorable Court in Limine, for an order instructing the District Attorney to absolutely refrain from making any direct or indirect references whatsoever in person, by counsel, or through witnesses, to the evidence or testimony hereinafter described, and shows the following:

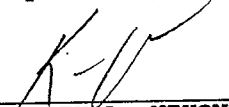
1. This Defendant believes and hence alleges that at his trial the State will attempt to introduce into evidence, and/or make reference to alleged statements made by him.

2. The alleged statements were obtained by law enforcement officers and Assistant District Attorney (Joe C. Jordan) in violation of the Constitution of the State of Alabama and of the United States of America; therefore, the Defendant moves this Honorable Court to conduct a hearing outside the presence of the jury pursuant to Jackson v. Denno, 378 U.S. 364, 84 S. Ct. 1774, 12 L. Ed.2d 908 (1964), to determine whether these alleged statements are admissible on the trial of this case.

3. Any ordinary objection during the course of the trial, even if sustained with proper instructions to the jury, will not remove such prejudicial effect from the minds of the jurors that this evidence would have.

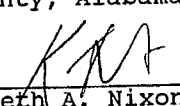
WHEREFORE, the Defendant, Rodney Karl Stanberry, moves this Honorable Court to exercise its discretion and make an order absolutely prohibiting said offer or reference.

Respectfully submitted,


 KENNETH A. NIXON
 Attorney for the Defendant
 Post Office Box 2301
 Mobile, Alabama 36652
 (205) 433-1806

CERTIFICATE OF SERVICE

I hereby certify that I have on this the 3rd day of April, 1995, personally served a copy of the foregoing on Joe C. Jordan, Assistant District Attorney, Mobile County, Alabama.


 Kenneth A. Nixon

DEFENDANT'S REQUESTED JURY CHARGE NO. 6

I charge you, members of the jury, that if after a consideration of all the evidence, the guilt of the defendant depends upon the testimony of a single witness, and the jury has a reasonable doubt as to the truthfulness of the testimony of such witness, then in such event, the defendant must be acquitted.

Handwritten signature:
D. W. Smith

DEFENDANT'S REQUESTED JURY CHARGE NO. 7

I charge you, members of the jury, that the burden is on the State to prove the defendant's guilt beyond a reasonable doubt, from the evidence, and that burden never shifts. There is no burden on the defendant to produce evidence, or prove anything.

*Don
P. M. King, Jr.*

DEFENDANT'S REQUESTED JURY CHARGE NO. 13

I charge you, members of the jury, that if two conclusions can reasonably be drawn from the evidence, one of guilt and one of innocence, it is the duty of the jury to adopt the conclusion of innocence.

Handwritten signature: [Signature]

DEFENDANT'S REQUESTED JURY CHARGE NO. 2

I charge you, members of the jury, that the indictment creates no presumption nor any inference that the defendant is guilty. The indictment is simply the formal written accusation against the defendant, and the vehicle by which the case is brought to trial.

Respect
fully of the Association

DEFENDANT'S REQUESTED JURY CHARGE NO. 3

I charge you, members of the jury, that if you believe from the evidence that a witness has testified who has been impeached by proof that the witness made prior statements which are inconsistent with the witness' testimony at trial as to a material fact in the case, you should consider the fact that the witness has made prior inconsistent statements in determining what weight to give to the testimony of such witness.

*Refused
Prince G. H. ...*

DEFENDANT'S REQUESTED JURY CHARGE NO. 4

I charge you, members of the jury, that a reasonable doubt may arise from a consideration of the testimony elicited on cross examination of witnesses for the State.

Rejoice
Prayer of the Holy Spirit

DEFENDANT'S REQUESTED JURY CHARGE NO. 5

I charge you, members of the jury, that a reasonable doubt is defined as a doubt which would cause a reasonable person to hesitate before acting in the most important of his or her personal affairs, arising out of a consideration of all the evidence.

*Request
for jury charge
No. 5*

DEFENDANT'S REQUESTED JURY CHARGE NO. 8

I charge you, members of the jury, that if the jury has a reasonable doubt of the defendant's guilt, arising out of a consideration of all of the evidence, any part of the evidence, or a lack of evidence, then in such event, the defendant must be acquitted.

Refused
Principles of Law

DEFENDANT'S REQUESTED JURY CHARGE NO. 9

I charge you, members of the jury, that if there is one single material fact proved to you from the evidence which is inconsistent with the guilt of the defendant, such may be sufficient to generate a reasonable doubt of his guilt.

*W. J. [unclear]
[unclear] [unclear] [unclear]*

DEFENDANT'S REQUESTED JURY CHARGE NO. 10

I charge you, members of the jury, that after a consideration of all the evidence, a reasonable doubt of the defendant's guilt may arise although there is no probability of the defendant's innocence from the evidence.

*Refused
Judge*

DEFENDANT'S REQUESTED JURY CHARGE NO. 11

I charge you, members of the jury, that if you believe from the evidence that there is a probability of the defendant's guilt, such is not sufficient to constitute proof beyond a reasonable doubt of his guilt, and your duty would be to acquit him.

*Defendant
Jury Charge*

DEFENDANT'S REQUESTED CHARGE NO. 12

I charge you, members of the jury, that if the jury believes from the evidence that the State has failed to produce evidence on a material fact in the case which the State had the power to produce, then in such event, the jury may consider whether the State's failure to do so constitutes a lack of evidence from which a reasonable doubt may arise.

arise.

Defendant's Requested Charge No. 14

I charge you that the law is that there should not be a conviction under the evidence unless to a moral certainty it excludes every other reasonable hypothesis other than that of the guilt of the accused. No matter how strong may be the facts, if they can be reconciled with the theory that some other person may have done the act, then the guilt of the accused is not shown by that full measure of proof which the law requires. Under such circumstances, you should find the Defendant not guilty.

☐ Given
☐ Refused

*Refused
by Jurors
11/11/11*

Defendant's Requested Charge No. 15

I charge you that the law is that there should not be a conviction under the evidence unless to a moral certainty it excludes every other reasonable hypothesis other than that of the guilt of the accused. No matter how strong may be the facts, if they can be reconciled with the theory that some other person may have done the act, then the guilt of the accused is not shown by that full measure of proof which the law requires. Under such circumstances, you should find the Defendant not guilty.

_____ Given

_____ Refused

*Refused
Find the Defendant not guilty*

State of Alabama
Unified Judicial System

Form C-52

Rev. 8/92

**CONSOLIDATED APPEARANCE
AND COST BOND**
(District Court, Grand Jury, Circuit Court)

Case Number

110
C092-2313

IN THE Circuit COURT OF White COUNTY
STATE OF ALABAMA v. Stanbery Karl
Defendant

I, Stanbery Karl, (Defendant), as principal,
and I (we), Carroll Stanbery, as surety(ies),

agree to pay the State of Alabama the sum of \$ 2000 and all costs incurred unless the above named defendant appears before the district court of said county on May 1 (date) at 10:00 a.m. (time) (if date and time are unknown, the words "the scheduled" may be placed in the date blank and a line may be placed in the space for time.) and from time to time thereafter until discharged by law or at the next session of circuit court of said county; there to await the action of the grand jury and from session to session thereafter until discharged by law to answer to the charge of Attempted Murder or any other charge as authorized by law.

We hereby severally certify that we have property valued over and above all debts and liabilities that has a fair market value equal to or greater than the amount of the above bond, and we, and each of us, waive the benefit of all laws exempting property from levy and sale under execution or other process for the collection of debt by the Constitution and Laws of the State of Alabama, and we especially waive our rights to claim exempt our wages or salary, that we have under the laws of Alabama and our rights to homestead exemptions that we have under the Constitution of Alabama and the laws of the State of Alabama, as set out in a separate writing.

It is agreed and understood that this is a consolidated bond, eliminating the necessity for multiple bonds and that it shall continue in full force and effect, unless modified by order of court, until the defendant appears before the District Court or Circuit Court, whichever has jurisdiction, to answer the above charge, and from time to time thereafter until the defendant is discharged by law, or, until such time as the undersigned sureties are otherwise duly exonerated as provided by law.

Signed and sealed this date with notice that false statements are punishable as perjury.

Signature of Defendant <u>Stanbery Karl</u> (L.S.)		Address (Print) <u>3327 W. Turner Rd. Whistler, AL 36612</u>		State <u>AL</u>	Zip <u>36612</u>
Signature of Surety <u>Carroll Stanbery</u> (L.S.)		Social Security Number <u>422-44-2923</u>		Address (Print) <u>3327 W. Turner Rd. Whistler, AL 36612</u>	
Social Security Number <u>422-44-2923</u>		Address (Print) <u>3327 W. Turner Rd. Whistler, AL 36612</u>		State <u>AL</u>	Zip <u>36612</u>
Signature of Surety <u>Carroll Stanbery</u> (L.S.)		Social Security Number <u>422-44-2923</u>		Address (Print) <u>3327 W. Turner Rd. Whistler, AL 36612</u>	
Social Security Number <u>422-44-2923</u>		Address (Print) <u>3327 W. Turner Rd. Whistler, AL 36612</u>		State <u>AL</u>	Zip <u>36612</u>

DATE RELEASED 4/2/93
DATE ARRESTED 4/2/93
ARRESTED BY ST. Croade

Approved by: Judge/Magistrate/Sheriff

By: Deputy Sheriff

Defendant's Information			
Date of Birth <u>4-27-69</u>	Sex <u>M</u>	Employer	
Social Security Number <u>31-62-9874</u>	Race <u>B</u>	Employer's Address	
Driver's License Number <u>AL 5510105</u>	State <u>AL</u>	Telephone Number <u>456-7091</u>	Employer's Telephone Number

☐ Property Bond ☐ Professional Bond ☐ Secured/Cash Bond

CONSOLIDATED BOND COURT RECORD: Original DEFENDANT: Copy SURETY: Copy

4-10-95

State of Alabama
Unified Judicial System

Form C-52

Rev. 8/92

**CONSOLIDATED APPEARANCE
AND COST BOND**
(District Court, Grand Jury, Circuit Court)

Case Number

CO92-2314

IN THE Circuit
STATE OF ALABAMA

COURT OF Mobile

COUNTY

v. Standberry Karl

Defendant

I, Karl Standberry (Defendant), as principal,
and I (we), Earrell Standberry, as surety(ies),

agree to pay the State of Alabama the sum of \$ 2000 and all costs incurred unless the above named defendant appears before (the district court of said county on Next (date) at Next (time) (if date and time are unknown, the words "the scheduled" may be placed in the date blank and a line may be placed in the space for time.) and from time to time thereafter until discharged by law or at the next session of circuit court of said county, there to await the action by the grand jury and from session to session thereafter until discharged by law to answer to the charge of Robbery 1st or any other charge as authorized by law.

We hereby severally certify that we have property valued over and above all debts and liabilities that has a fair market value equal to or greater than the amount of the above bond, and we, and each of us, waive the benefit of all laws exempting property from levy and sale under execution or other process for the collection of debt by the Constitution and Laws of the State of Alabama, and we especially waive our rights to claim exempt our wages or salary, that we have under the laws of Alabama and our rights to homestead exemptions that we have under the Constitution of Alabama and the laws of the State of Alabama, as set out in a separate writing.

It is agreed and understood that this is a consolidated bond, eliminating the necessity for multiple bonds and that it shall continue in full force and effect, unless modified by order of court, until the defendant appears before the District Court or Circuit Court, whichever has jurisdiction, to answer the above charge, and from time to time thereafter until the defendant is discharged by law, or, until such time as the undersigned sureties are otherwise duly exonerated as provided by law.

Signed and sealed this date with notice that false statements are punishable as perjury.

Signature of Defendant <u>Karl Standberry</u> (L.S.)		Address (Print) <u>3327 W. Turner Ave. Whistler, AL 36612</u>		State <u>AL</u>	Zip <u>36612</u>
Signature of Surety <u>Earrell Standberry</u> (L.S.)		Signature of Surety <u>Earrell Standberry</u> (L.S.)			
Social Security Number <u>422-48-2923</u>		Social Security Number			
Address (Print) <u>3327 W. Turner Ave. Whistler, AL 36612</u>		Address (Print)		State	Zip
Signature of Surety <u>Earrell Standberry</u> (L.S.)		Signature of Surety <u>Earrell Standberry</u> (L.S.)			
Social Security Number		Social Security Number			
Address (Print) <u>3327 W. Turner Ave. Whistler, AL 36612</u>		Address (Print)		State	Zip

DATE RELEASED 4/2/93
DATE ARRESTED 3/17/93

ARRESTED BY ST. MOORE

Approved by: Judge/Magistrate/Sheriff [Signature]

By: Deputy Sheriff [Signature]

Defendant's Information			
Date of Birth <u>4-27-69</u>	Sex <u>M</u>	Employer	
Social Security Number <u>131-62-9874</u>	Race <u>B</u>	Employer's Address	
Driver's License Number <u>AL5510005</u>	State <u>AL</u>	Telephone Number <u>456-7091</u>	Employer's Telephone Number

☐ Property Bond ☐ Professional Bond ☐ Secured/Cash Bond

CONSOLIDATED BOND COURT RECORD: Original DEFENDANT: Copy SURETY: Copy

4-10-95

ite of Alabama ified Judicial System	CONSOLIDATED APPEARANCE AND COST BOND (District Court, Grand Jury, Circuit Court)	Case Number CO92-2315																
JRM 6-52 Rev. 8/92																		
IN THE <u>Circuit</u> COURT OF <u>Mobile</u> COUNTY																		
STATE OF ALABAMA v. <u>Stanberry Karl</u> Defendant																		
I, <u>Stanberry Karl</u> (Defendant), as principal,																		
and <u>we</u> , <u>Stanberry Karl</u> (as surety(ies)),																		
agree to pay the State of Alabama the sum of \$ <u>5000</u> and all costs incurred unless the above named defendant appears before the district court of said county on <u>May 1</u> (date) at <u>11:00</u> a.m. (time) (if date and time are unknown, the words "the scheduled" may be placed in the date blank and a line may be placed in the space for time.) and from time to time thereafter until discharged by law or at the next session of circuit court of said county; there to await the action by the grand jury and from session to session thereafter until discharged by law to answer to the charge of <u>Burglary 1st</u> or any other charge authorized by law.																		
We hereby severally certify that we have property valued over and above all debts and liabilities that has a fair market value equal to or greater than the amount of the above bond, and we, and each of us, waive the benefit of all laws exempting property from levy and sale under execution or other process for the collection of debt by the Constitution and Laws of the State of Alabama, and we especially waive our rights to claim exempt our wages or salary, that we have under the laws of Alabama and our rights to homestead exemptions that we have under the Constitution of Alabama and the laws of the State of Alabama, as set out in a separate writing.																		
It is agreed and understood that this is a consolidated bond, eliminating the necessity for multiple bonds and that it shall continue in full force and effect, unless modified by order of court, until the defendant appears before the District Court or Circuit Court, whichever has jurisdiction, to answer the above charge, and from time to time thereafter until the defendant is discharged by law, or, until such time as the undersigned sureties are otherwise duly exonerated as provided by law.																		
Signed and sealed this date with notice that false statements are punishable as perjury.																		
<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td colspan="2">Signature of Defendant <u>Stanberry Karl</u> (L.S.)</td></tr><tr><td colspan="2">Address (Print) <u>3327 W. Turner Rd. Prichard AL</u> State <u>AL</u> Zip <u>36062</u></td></tr><tr><td>Signature of Surety <u>Stanberry Karl</u> (L.S.)</td><td>Signature of Surety <u>Stanberry Karl</u> (L.S.)</td></tr><tr><td>Social Security Number <u>Stanberry Karl</u></td><td>Social Security Number <u>Stanberry Karl</u></td></tr><tr><td>Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u></td><td>Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u></td></tr><tr><td>Signature of Surety <u>Stanberry Karl</u> (L.S.)</td><td>Signature of Surety <u>Stanberry Karl</u> (L.S.)</td></tr><tr><td>Social Security Number <u>Stanberry Karl</u></td><td>Social Security Number <u>Stanberry Karl</u></td></tr><tr><td>Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u></td><td>Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u></td></tr></table>			Signature of Defendant <u>Stanberry Karl</u> (L.S.)		Address (Print) <u>3327 W. Turner Rd. Prichard AL</u> State <u>AL</u> Zip <u>36062</u>		Signature of Surety <u>Stanberry Karl</u> (L.S.)	Signature of Surety <u>Stanberry Karl</u> (L.S.)	Social Security Number <u>Stanberry Karl</u>	Social Security Number <u>Stanberry Karl</u>	Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u>	Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u>	Signature of Surety <u>Stanberry Karl</u> (L.S.)	Signature of Surety <u>Stanberry Karl</u> (L.S.)	Social Security Number <u>Stanberry Karl</u>	Social Security Number <u>Stanberry Karl</u>	Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u>	Address (Print) <u>Stanberry Karl</u> State <u>AL</u> Zip <u>36062</u>
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DATE RELEASED <u>5/1/95</u> DATE ARRESTED <u>5/1/95</u> ARRESTED BY <u>STANBERRY</u>																		
Approved by: Judge or District Attorney By: Deputy Sheriff <u>Stanberry Karl</u>																		
Date																		
Defendant's Information																		
Date of Birth <u>4-27-69</u>	Sex <u>M</u>	Employer																
	Race <u>B</u>	Employer's Address																
Driver's License Number <u>AL-551005</u>	State <u>AL</u>	Employer's Telephone Number																
Telephone Number <u>456-7091</u>																		
<input type="checkbox"/> Property Bond <input type="checkbox"/> Professional Bond <input type="checkbox"/> Secured/Cash Bond																		
CONSOLIDATED BOND COURT RECORD: Original DEFENDANT: Copy SURETY: Copy																		

STATE OF ALABAMA, }
Mobile County. } Circuit Court, Mobile County, Alabama

KNOW ALL MEN BY THESE PRESENTS, That we Rodney Karl Stanberry
as principal, and Steve Roberts Bail Bonds
as sureties, are held and firmly bound unto the State of Alabama in the sum of Twenty Thousand (\$20,000.00) Dollars, for the payment of which we jointly and severally bind ourselves and our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this 11th day of May 19 95

The condition of the above obligation is such that whereas, the above bounden Rodney Karl Stanberry has on this day applied for and obtained an appeal to the Court of Appeals of the State of Alabama, from a judgment rendered against him by the Circuit Court of Mobile County, on the 11th day of May 19 95, for the offense of Attempted Murder

Now, if the said Rodney Karl Stanberry shall appear at the next term of the Circuit Court of Mobile County, Alabama, and from term to term thereafter to abide such judgment as may be rendered on the appeal, then this bond to be void, otherwise to remain in full force and effect.

And we hereby waive all right of exemptions allowed us under the constitution and laws of the State of Alabama as to the collection of this bond if forfeited.

add: 3527 TURNER RD
WHISTLER AL 36612

x Carling Stanberry (SEAL)
Steve Roberts Bail Bonds (SEAL)
Willie E. Stoker (SEAL)

STATE OF ALABAMA, }
Mobile, County }

Personally appeared before me, Susan F. Wilson Clerk of the Circuit Court of Mobile County, Alabama, Steve Roberts Bail Bonds and Willie E. Stoker Who being duly sworn, depose and say that they are each worth, exclusive of property exempt from execution, double the amount expressed in the above undertaking.

Steve Roberts Bail Bonds
Willie E. Stoker

Subscribed and sworn to before me this the 11th day of May 19 95

Susan F. Wilson
Clerk of the Circuit Court
of Mobile County, Alabama

114
STATE OF ALABAMA, }
Mobile County. } Circuit Court, Mobile County, Alabama
CC92-2314

KNOW ALL MEN BY THESE PRESENTS, That we Rodney Karl Stanberry
as principal, and Steve Roberts Bail Bonds and _____
as sureties, are held and firmly bound unto the State of Alabama in the sum of _____
Twenty Thousand (\$20,000.00) Dollars, for the payment of which we jointly and
severally bind ourselves and our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this 11th day of May 1995

The condition of the above obligation is such that whereas, the above bounden _____
Rodney Karl Stanberry has on this day applied for and obtained an appeal
to the Court of Appeals of the State of Alabama, from a judgment rendered against him by
the Circuit Court of Mobile County, on the 11th
day of May 1995, for the offense of _____
Robbery, First Degree

Now, if the said Rodney Karl Stanberry shall appear at the next term
of the Circuit Court of Mobile County, Alabama, and from term to term thereafter to abide such
judgment as may be rendered on the appeal, then this bond to be void, otherwise to remain in full force
and effect.

And we hereby waive all right of exemptions allowed us under the constitution and laws of the
State of Alabama as to the collection of this bond if forfeited.

EXX. 3327 TURNER RD
WHISTLER AL 36612

Rodney Stanberry (SEAL)
Steve Roberts Bail Bonds (SEAL)
William E. Stokes (SEAL)

STATE OF ALABAMA, }
Mobile, County }

Personally appeared before me, Susan F. Wilson Clerk of the Circuit Court of Mobile
County, Alabama, Steve Roberts Bail Bonds and _____
Who being duly sworn, depose and say that they are each worth, exclusive of property exempt from
execution, double the amount expressed in the above undertaking.

Steve Roberts Bail Bonds
William E. Stokes

Subscribed and sworn to before me this 11th day of May 1995

Susan F. Wilson
Clerk of the Circuit Court
of Mobile County, Alabama

115
STATE OF ALABAMA, } Circuit Court, Mobile County, Alabama
Mobile County. } CC92-2315

KNOW ALL MEN BY THESE PRESENTS, That we Rodney Karl Stanberry
as principal, and Steve Roberts Bail Bonds
as sureties, are held and firmly bound unto the State of Alabama in the sum of _____
Twenty Thousand (\$20,000.00) Dollars, for the payment of which we jointly and
severally bind ourselves and our heirs, executors and administrators, firmly by these presents.

Sealed with our seals and dated this 11th day of May 19 95

The condition of the above obligation is such that whereas, the above bounden
Rodney Karl Stanberry has on this day applied for and obtained an appeal
to the Court of Appeals of the State of Alabama, from a judgment rendered against him by
the Circuit Court of Mobile County, on the 11th
day of May 19 95, for the offense of _____
Burglary, First Degree

Now, if the said Rodney Karl Stanberry shall appear at the next term
of the Circuit Court of Mobile County, Alabama, and from term to term thereafter to abide such
judgment as may be rendered on the appeal, then this bond to be void, otherwise to remain in full force
and effect.

And we hereby waive all right of exemptions allowed us under the constitution and laws of the
State of Alabama as to the collection of this bond if forfeited.

3327 TURNER RD
WHISLER AL 36692

Rodney Stanberry (SEAL)
Steve Roberts Bail Bonds (SEAL)
Willie E. Stokes (SEAL)

STATE OF ALABAMA, }
Mobile, County }

Personally appeared before me, Susan F. Wilson Clerk of the Circuit Court of Mobile
County, Alabama, Steve Roberts Bail Bonds and _____
Who being duly sworn, depose and say that they are each worth, exclusive of property exempt from
execution, double the amount expressed in the above undertaking.

Steve Roberts Bail Bonds
Willie E. Stokes

Subscribed and sworn to before me this 11th day of May 19 95

Susan F. Wilson
Clerk of the Circuit Court
of Mobile County, Alabama

IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA,

Plaintiff,

v.

RODNEY KARL STANBERRY,

Defendant.

*

*

* CASE NOS. CC-92-2313
CC-92-2314
CC-92-2315

*

*

MOTION FOR NEW TRIAL

COMES NOW the Defendant, Rodney Karl Stanberry, and respectfully moves this Court to grant a new trial, on the following grounds, separately and severally:

1. The verdict of the jury is contrary to the great weight and preponderance of the evidence of this case.

2. The Court erred in overruling the separate and several objections of the Defendant to the separate and several questions asked the witnesses during the course of the trial.

3. The Court erred in sustaining the separate and several objections of the State of Alabama to the separate and several questions asked the witnesses during the course of the trial.

4. The Court erred in its rulings on the admissibility of the testimony upon the trial of this case.

5. The Court erred in its rulings on the admissibility of the physical evidence on the trial of this case, including but not limited to the refusal to admit in evidence the tape recorded conversation between Donald "Taco" Jones and the Defendant, the video and audio tape confession of Tyrell Moore and the transcript of the interrogation of Tyrell Moore by Assistant District Attorney Joe C. Jordan and Detective Lebaron Smith.

6. The Court erred in sustaining the State's hearsay objection to questions asked or proffered by the Defendant regarding information received by Tyrell Moore and Donald "Taco" Jones.

7. The Court erred in overruling the Defendant's motion for judgment of acquittal made at the close of the State's case.

8. The Court erred in overruling the Defendant's motion for judgment of acquittal made at the close of all the evidence.

9. The Defendant was denied a fair trial in that the State failed to disclose exculpatory material in violation of Brady v. Maryland, including but not limited to, failing to disclose that certain factual witness had changed their testimony from the testimony that was provided to the Defendant in discovery.

10. The Defendant was denied due process when the prosecution failed to extend use immunity to defense witness, Tyrell Moore, for his trial testimony, after immunity had been granted to the said witness prior to trial and obtained a statement from the witness which was exculpatory in nature toward the Defendant.

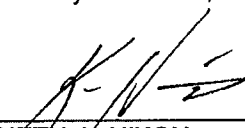
11. The Defendant was denied a fair trial because the State failed to seek use immunity for a defense witness, namely, Tyrell Moore.

12. The State engaged in prosecutorial misconduct by failing to comply with the Court's "open file" discovery order. Specifically, among other things, the prosecutor took statements from key witness himself, rather than allowing the investigation officer to take the said statements, and refused to disclose the contents of the said statements to the defense claiming they were his "work product". Further, the prosecution knew or should have known that a key witness, the victim's sister, was going to give testimony at trial which was materially different

from the statement that she gave to police and which was provided to the Defendant pursuant to the pretrial "open file" discovery order.

WHEREFORE, the Defendant moves the Court to grant a hearing in this matter and after consideration is given, issue an order granting the Defendant a new trial.

Respectfully submitted,


KENNETH A. NIXON
Attorney for Defendant

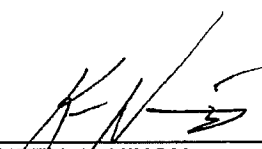
OF COUNSEL:

LYONS, PIPES & COOK, P.C.
Post Office Box 2727
Mobile, Alabama 36652
(205) 432-4481

CERTIFICATE OF SERVICE

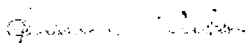
I hereby certify that I have on this the 9th day of June, 1995, served a copy of the foregoing on the following by placing a copy of same in the United States Mail, properly addressed and first class postage prepaid:

Joe C. Jordan
Assistant District Attorney
P.O. Box 2841
Mobile, AL 36604


KENNETH A. NIXON

STATE OF ALA. MOBILE CO.
I CERTIFY THIS PLEADING
WAS FILED ON

JUN 9 4 47 PM '95


CLERK CIRCUIT COURT

Request of the Trial Judge for an Extension
for Filing a Transcript

(Must be requested and granted prior to the date transcript is due)
I, Barbara Ausborn, Official Court Reporter in the Thirteenth
Judicial Circuit, hereby request a twenty-eight-day extension to
file the transcript in Cases No. CC92-2313, 92-2314 and 92,2315,
styled State of Alabama v. Rodney Karl, Stanberry, which is
currently due September 22, 1995.

The reporter has three other transcripts to prepare which were
appealed prior to this appeal. This case lasted a week.

Sept. 21, 1995
Date

Barbara Ausborn
Signed

Judge's Action

✓ I, Ferrill D. McRae, hereby authorize an extension of twenty-
eight(28) days to file the transcript in the above styled
case.

The transcript is due on September 22, 1995. An extension is
granted until October 20, 1995.

— I, _____, deny an extension to file the
transcript.

Sept 21st 1995
Date

Ferrill D. McRae
Ferrill D. McRae

THE COURT OF CRIMINAL APPEALS OF ALABAMA

RODNEY KARL STANBERRY,	THE CIRCUIT COURT OF MOBILE
Appellant	COUNTY, ALABAMA
v.	CASES NO. 92-2213, 92-2314
STATE OF ALABAMA,	and 92-2325
Appellee	

Comes the reporter, Barbara Ausborn, and requests a twenty-eight (28) day extension of time within which to file the transcript of the above case. It is due on October 20, 1995. An extension is requested until November 17, 1994.

The reporter has three other criminal transcripts on which the appeal date is earlier than this one. The reporter has been in court reporting a medical malpractice case for most of the past two weeks, except for time lost due loss of electric power, and another medical malpractice case was started yesterday and which is expected to last all week.

DATED October 17, 1995.

Barbara Ausborn
Barbara Ausborn
Court Reporter

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT
THE ALABAMA COURT OF CRIMINAL APPEALS

Criminal Appeals No. 94-1552

Rodney Karl Stanberry

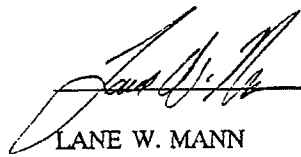
vs.

State of Alabama

Appeal from Mobile Circuit Court No. CC92-2213;2314;2325

You are hereby notified that on October 23, 1995, the following indicated action was taken in the above-styled cause by the Court of Criminal Appeals of Alabama:

On motion of court reporter, time for filing court reporter's transcript of proceedings extended to November 17, 1995.



LANE W. MANN
CLERK
COURT OF CRIMINAL APPEALS OF ALABAMA

CCA/sm

cc: Ferrill McRae, Judge
Susan Wilson, Circuit Clerk ✓
Barbara Ausborn, Court Reporter
Kenneth Nixon, Esquire
Office of Attorney General

THE COURT OF CRIMINAL APPEALS OF ALABAMA

RODNEY KARL STANBERRY, THE CIRCUIT COURT OF MOBILE
Appellant COUNTY, ALABAMA
v. CASES NO. 92-2213, 92-2314
STATE OF ALABAMA, and 92-2325
Appellee

Comes the reporter, Barbara Ausborn, and requests a fourteen (14) day extension of time within which to file the transcript of the above case. It is due on November 17, 1995. An extension is requested until December 1, 1995.

The reporter has no other transcripts on which the appeal date is earlier than this one. The transcript is almost complete, but will need proofreading, correcting and printing when it is completed.

DATED November 14, 1995.

Barbara Ausborn

Barbara Ausborn
Court Reporter

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT
THE ALABAMA COURT OF CRIMINAL APPEALS

Criminal Appeals No. 94-1552

Rodney Karl Stanberry

vs.

State of Alabama

Appeal from Mobile Circuit Court No. CC92-2313 thru 2315

You are hereby notified that on November 20, 1995, the following indicated action was taken in the above-styled cause by the Court of Criminal Appeals of Alabama:

On motion of court reporter, time for filing court reporter's transcript of proceedings extended to December 1, 1995.



LANE W. MANN
CLERK
COURT OF CRIMINAL APPEALS OF ALABAMA

CCA/sm

cc: Ferrill McRae, Judge
Susan Wilson, Circuit Clerk ✓
Barbara Ausborn, Court Reporter
Kenneth Nixon, Esquire
Office of Attorney General

THE COURT OF CRIMINAL APPEALS OF ALABAMA

RODNEY KARL STANBERRY,

Appellant

v.

STATE OF ALABAMA,

Appellee

THE CIRCUIT COURT OF MOBILE

COUNTY, ALABAMA

CASES NO. 92-22³13, 92-2314

and 92-2325

Comes the reporter, Barbara Ausborn, and requests a suspension of the Rules and that the transcript of the trial of the above case be received as timely filed. It was due on December 1, 1995, but a computer malfunction necessitated a large part of it being redone.

The reporter has no other transcripts on which the appeal date is earlier than this one. The transcript is almost complete, but will need proofreading, correcting and printing when it is completed.

DATED December 18, 1995.

Barbara Ausborn
Barbara Ausborn
Court Reporter